

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 7
901 N. 5th STREET
KANSAS CITY, KANSAS 66101

08 JUN -2 PM 1:55
ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

In the Matter of

The Procter & Gamble Manufacturing Company
169 East Grand Avenue
St. Louis, Missouri 63147

Respondent

)
)
)
)
)
)

Docket No. CAA-07-2008-0005

CONSENT AGREEMENT AND FINAL ORDER

The U.S. Environmental Protection Agency (EPA), Region 7 and The Procter & Gamble Manufacturing Company (Respondent) have agreed to a settlement of this action before filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (Consolidated Rules), 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

FACTUAL ALLEGATIONS

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties instituted pursuant to Section 113(d) of the Clean Air Act, (hereinafter "the Act"), 42 U.S.C. § 7413(d).

2. This Consent Agreement and Final Order serves as notice that EPA has reason to believe that Respondent has violated the industrial refrigerant repair, testing, record-keeping, and

*In the matter of
The Procter & Gamble Manufacturing Company*

reporting regulations at 40 C.F.R. Part 82, Subpart F, §§ 82.150-82.166 ("Recycling and Emission Reduction"), promulgated pursuant to Subchapter VI of the Act ("Stratospheric Ozone Protection"), 42 U.S.C. §§ 7671-7671q, at its facility located in St. Louis, Missouri.

Parties

3. The Complainant, by delegation from the Administrator of the EPA, and the Regional Administrator, EPA, Region 7, is the Director of the Air and Waste Management Division, EPA, Region 7.

4. The Respondent is The Procter & Gamble Manufacturing Company, 169 East Grand Avenue, St. Louis, Missouri.

Alleged Violations

5. The Complainant hereby states and alleges that Respondent has violated the Act and federal regulations promulgated thereunder, as follows:

6. Respondent is, and at all times referred to herein, was a "person" as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).

7. Respondent is, and at all times referred to herein, was the "owner or operator," as those terms are used in 40 C.F.R. Part 82, Subpart F, §§ 82.150-82.166, of the St. Louis, Missouri, facility.

8. Respondent is, and at all times referred to herein, was the "owner or operator" of units, which constitute industrial process refrigeration (IPR) appliances, as described in 40 C.F.R. § 82.152, such as complex customized appliances used in the chemical, petrochemical, pharmaceutical, and manufacturing industries.

9. On or about February 7, 2006, an inspection was conducted of Respondent's facility at 169 East Grand Avenue, St. Louis, Missouri. A request for information under Section 114 of the Act was issued to Respondent on April 18, 2006. Respondent responded to the information request on June 22, 2006.

10. Pursuant to 40 C.F.R. § 82.156(i)(2), the owner or operator of IPR equipment normally containing more than 50 pounds of refrigerant must repair leaks if the appliance is leaking at a rate such that the loss of refrigerant will exceed 35 percent of the total charge during a 12-month period in accordance with paragraph (i)(9) of this section.

11. Pursuant to 40 C.F.R. § 82.156(i)(9), the owner or operator "must repair leaks within thirty (30) days after discovery, . . . unless granted additional time pursuant to § 82.156(i)."

12. Pursuant to 40 C.F.R. § 82.156(i)(3), if leak repair is attempted, the owner or operator must then perform an initial verification leak check on the subject appliance. A follow-up verification leak test must be performed within thirty (30) days of the initial verification test. 40 C.F.R. § 82.156(i)(3).

13. Pursuant to 40 C.F.R. § 82.156(i)(3)(iii), the owner or operator of IPR equipment must notify the EPA within thirty (30) days (in accordance with 40 C.F.R. § 82.166(n)) in the event the follow-up verification test reveals that the repairs were not successful.

14. If leak repair has not been successfully completed within thirty (30) days, the owner or operator must retrofit or retire the appliance. 40 C.F.R. § 82.156(i)(3)(ii). The owner or operator is required to develop a retrofit or retirement plan within thirty (30) days and to implement the plan within one year. 40 C.F.R. § 82.156(i)(6).

15. Pursuant to 40 C.F.R. § 82.166(k) and (n), the owner or operator of an IPR appliance must maintain on-site and report to the EPA information relevant to the affected appliance,

*In the matter of
The Procter & Gamble Manufacturing Company*

including: the identification of the industrial process facility; the leak rate; the method used to determine the leak rate; the date a leak rate above the applicable leak rate was discovered; the location of leaks; the date and type of repair work that has been completed; and any plan to complete the retrofit or retirement of the system.

16. On one or more occasions since May 1, 2004, Respondent failed to successfully conduct repairs and/or failed to bring leak rate below 35 percent within 30 days on Respondent's IPR Appliance identified as PB-1 or 2415, in violation of 40 C.F.R. § 82.156(i)(2) and § 82.156(i)(9), and therefore in violation of § 608 of the Act, 42 U.S.C. § 7671g.

17. On one or more occasions since May 1, 2004, Respondent failed to maintain adequate records of initial verification tests performed upon completion of repairs to Respondent's IPR Appliance identified as PB-1 or 2415, as required by 40 C.F.R. § 82.166(k) and (n) and § 608 of the Act, 42 U.S.C. § 7671g.

18. On one or more occasions since May 1, 2004, Respondent failed to maintain adequate records of follow-up verification tests performed within thirty (30) days of the initial verification test, in violation of 40 C.F.R. § 82.166(k) and (n), and therefore in violation of § 608 of the Act, 42 U.S.C. § 7671g.

19. On one or more occasions since May 1, 2004, Respondent failed to notify EPA that Respondent's IPR Appliance identified as PB-1 or 2415 failed one or more follow-up verification tests as required by 40 C.F.R. § 82.156(i)(3)(iii) and § 608 of the Act, 42 U.S.C. § 7671g.

20. On one or more occasions since May 1, 2004, Respondent failed to report to EPA, and maintain on-site, information, records and reports detailing the leak rate of Respondent's IPR Appliance identified as PB-1 or 2415, the method used to determine the leak rate, the date a violative leak rate was discovered, the location and extent of the leak, and the date and type of

repair work performed, as required by 40 C.F.R. § 82.166(n) and § 608 of the Act, 42 U.S.C. § 7671g.

21. Respondent failed to timely retrofit or retire Respondent's IPR Appliance identified as PB-1 or 2415 within one year after a follow-up verification test was required and would have shown that repair attempts were unsuccessful, in violation of 40 C.F.R. § 82.156(i)(3)(ii) and § 608 of the Act, 42 U.S.C. § 7671g.

22. Respondent failed to timely develop a written, one-year retrofit or retirement plan for Respondent's IPR Appliance identified as PB-1 or 2415, in violation of 40 C.F.R. § 82.156(i)(6) and § 608 of the Act, 42 U.S.C. § 7671g.

23. Pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), and based upon the violations alleged in paragraphs 5 through 22, a civil penalty of Eighty One Thousand Three Hundred Twenty Dollars (\$81,320) was proposed.

CONSENT AGREEMENT

24. For purposes of this proceeding, Respondent admits the jurisdictional allegations set forth above.

25. Respondent neither admits nor denies the factual allegations set forth above.

26. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above and its right to appeal the Final Order accompanying this Consent Agreement.

27. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

28. To the best of Respondent's knowledge, Respondent's facility located in St. Louis, Missouri, is in compliance with all requirements of 40 C.F.R. Part 82, Subpart F, §§ 82.150-

*In the matter of
The Procter & Gamble Manufacturing Company*

82.166 ("Recycling and Emission Reduction"), promulgated pursuant to Subchapter VI of the Act ("Stratospheric Ozone Protection"), 42 U.S.C. §§ 7671-7671q.

29. Nothing in this Consent Agreement shall be construed as a release from, or to insulate Respondent from, any other action under any law and/or regulation administered by the U.S. Environmental Protection Agency, except for civil liability for the violations specifically alleged herein.

30. Each signatory of this Agreement certifies that he or she is fully authorized to enter into the terms of this Consent Agreement and Final Order.

FINAL ORDER

Pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), and upon information contained in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent, in settlement of the allegations set forth in the Complaint, shall pay by cashier's or certified check, a civil penalty, for the violation cited therein, in the amount of Eighty One Thousand Three Hundred Twenty Dollars (\$81,320), payable to the "Treasurer, United States of America", and such check shall be mailed to:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, Missouri 63197-9000.

Payment must be received at the above address on or before 30 days after Respondents receipt of a fully executed copy of the Consent Order.

In the matter of
The Procter & Gamble Manufacturing Company

A copy of the check shall be mailed to:

Julie Murray
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
901 North 5th Street
Kansas City, Kansas 66101.

2. The effective date of this Order shall be the date on which it is signed by the Regional Judicial Officer.

3. This executed Consent Agreement and Final Order shall be filed with the Regional Hearing Clerk, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas, 66101.

COMPLAINANT:

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

By: Julie Murray
Julie Murray
Attorney
Office of Regional Counsel

Date: May 15, 2008

By: Becky Weber
Becky Weber
Director
Air and Waste Management Division

Date: 5/20/08

In the matter of
The Procter & Gamble Manufacturing Company

RESPONDENT:

The Procter & Gamble Manufacturing
Company

By: J. Woodard

Title: St. Louis Plant Manager

Date: May 12, 2008

In the matter of
The Procter & Gamble Manufacturing Company

IT IS SO ORDERED. This Order shall become effective immediately.

Karina Borromeo
Karina Borromeo
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 7

Date: June 2, 2008

IN THE MATTER OF The Procter & Gamble Manufacturing Company, Respondent
Docket No. CAA-07-2008-0005

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:


Copy hand delivered to
Attorney for Complainant:

Julie L. Murray
Senior Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Original by Certified Mail Return Receipt to:

Ms. Parthenia B. Evans
Stinson Morrison Hecker LLP
1201 Walnut Street
Kansas City, Missouri 64106

Dated: 6/2/08


Kathy Robinson
Hearing Clerk, Region 7